

GOVERNOR
BRIAN SCHWEITZER
STATE OF MONTANA

Special Session
September 2007

Governor's Office of Budget
and Program Planning



September 2007 Special Session Addressing Fires

Governor's Objective

Having enough funds to pay for the fires of the 2007 season and having sufficient funding and authority to reasonably address any emergency including a significant fire season during 2008.

Governor's Recommend Actions for Special Session

- 1. Provide sufficient fire suppression appropriation and authority to avoid a third special session prior to the 2009 Legislative session**
- 2. Fire suppression costs for the 2007 fire season**
 - ✓ Appropriate approximately \$39 million of general fund to the Department of Natural Resources and Conservation to pay the state's share of the total fires costs currently estimated at \$84.3 million.
 - ✓ Appropriate \$3 million of general fund to the Department of Military Affairs.
- 3. Appropriation for the 2008 fire season**
 - ✓ Appropriate \$10 million to Department of Natural Resources and Conservation (DNRC).
- 4. Increase the Governor's Emergency Contingency Account**
 - ✓ Increase the Governor's Emergency Contingency Account from \$16 million to \$25 million.
- 5. Time frame for fire emergency declarations**
 - ✓ Remove the current 20 day emergency and 30 day disaster declaration limitations for fire during the months of July through October.

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR



JOHN BOHLINGER
LT. GOVERNOR

September 1, 2007

Honorable Members of Montana's Sixtieth Legislative Assembly:

Montanans are enduring a difficult and costly fire season. Our fire situation this year is consistent with the trend we have seen for the past several years. Unless our drought conditions improve markedly, we must be prepared for the possibility of another difficult fire season next year.

Protecting public safety is state government's first priority. Hundreds of firefighters, members of the Montana National Guard, and support staff from Montana and across the Nation are fighting these fires. They are protecting our lives, our homes and our livelihoods.

We need to pay for these services. I have called a special session to ask the legislature to appropriate sufficient funds to pay for this season's fire costs and to set aside enough funds to deal with another potentially difficult fire season next summer.

Within our existing statutes on emergency declarations, I am requesting a change with respect only to fires: that from July through October, there is not a 20-day limitation on declaring an emergency or 30 limit on declaring a disaster. I am also requesting that the emergency statutory appropriation be increased from \$16 million for the biennium to \$25 million for the biennium, so that resources are available for Montanans to respond to declared emergencies or disasters, such as fires, floods or earthquakes, without delay.

While we have fund balances, we do not have sufficient appropriation authority. I am asking the legislature to move funds from our saving account to our checking account to pay not only for this year's fire bills, but for those we can reasonably anticipate next year.

I believe this matter can be addressed in a short special session dedicated only to this matter. I look forward to working with you.


BRIAN SCHWEITZER
Governor

Table of Contents

Letter from Governor	
Governor's Call	1
Legislative Fiscal Division Fire Suppression Funding Frequently Asked Questions	3
Proposed Legislation House Bill No. 1.....	5
Overview	9
Wildland Fire Suppression	9
Montana DES Drought Update 8/22/07	12
Long Range Predictions	12
Causes to Increased Costs	14
Funding History	14
2009 Biennium Executive Fire Funding Plan.....	14
Governor Executive Orders	
15-2007	16
16-2007	17
17-2007	18
General Fund Balance	19

**OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING
STATE OF MONTANA**

BRIAN SCHWEITZER
GOVERNOR



JOHN BOHLINGER
LT. GOVERNOR

TO: Members of the Montana Senate
Members of the House of Representatives
Secretary of State Brad Johnson
Members of the Montana Supreme Court c/o Clerk of the Court Ed Smith

**STATE OF MONTANA
OFFICE OF THE GOVERNOR
PROCLAMATION**

**CALL TO THE 60TH LEGISLATURE
FOR A SPECIAL SESSION**

WHEREAS, pursuant to Article V, section 6 of the Constitution of the State of Montana and § 5-3-101, MCA, the Governor may convene the legislature in special session; and

WHEREAS, pursuant to Article VI, section 11 of the Constitution of the State of Montana, the Governor may convene the legislature whenever he considers it in the public interest; and

WHEREAS, since June, extremely hazardous wildland fire conditions have existed throughout the State of Montana; and

WHEREAS, since mid-July, the State of Montana has been under declarations of states of emergency and disaster in order that Montana resources could be committed to responding to the fires; and

WHEREAS, in addition, because of the raging wildfires, twenty Montana counties and the Blackfeet Nation have declared states of emergency or disaster; and

WHEREAS, the cost of fire suppression to the state for the 2007 fire season already exceeds the amount of money appropriated by the legislature to suppress fires over the entire biennium; and

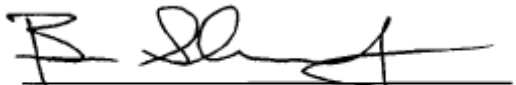
WHEREAS, pursuant to Article V, section 11 of the Constitution of the State of Montana, the power to appropriate money for the operation of state government lies exclusively with the legislative branch of government; and

WHEREAS, it is in the public interest that the legislature promptly convene in special session so as to appropriate money and provide spending authority to pay for the actual and anticipated costs of fire suppression, disaster response, and recovery activities for the 2007 and 2008 fire seasons.

NOW, THEREFORE, I, BRIAN SCHWEITZER, GOVERNOR OF THE STATE OF MONTANA, pursuant to the authority vested in me by the Constitution and laws of the State of Montana, do hereby convene the 60th Legislature in special session, in Helena, at the Capitol, at the hour of 8:00 a.m., the 5th day of September, 2007, and hereby limit the special session to consideration of the following subjects:

1. Appropriations necessary and anticipated for fire suppression, disaster response, and recovery activities in fiscal years 2008 and 2009;
2. Additional spending authority for emergencies and disasters and elimination of time restrictions applicable to declarations of disaster and emergency during fire season; and
3. Any appropriations necessary for the operation of the special legislative session.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Montana to be affixed. DONE at the City of Helena, the Capitol, this 27th day of August, in the year of our Lord, two thousand and seven.


BRIAN SCHWEITZER
Governor

Fire Suppression Funding - Frequently Asked Questions

The following presents a number of questions and answers about funding wildland fire suppression costs. It is not an analysis of the issues related to the timing of the special session, its need, or the amount requested. The Legislative Fiscal Division (LFD) will prepare an analysis of proposed legislation once it has been approved for pre-introduction. This analysis will be available by Tuesday, September 4th at 10:00 a.m. Check the LFD website often for updates.

How does Montana budget for fires? How much have we spent in the past?

Montana does not appropriate general fund for fire suppression. The legislature does provide funding (along with forest protection fees) for infrastructure (such as equipment) – about \$3.3 million per year.

Fire suppression costs incurred by the state include costs that are billable to other parties, such as the federal government. The net cost to the state is the total amount of fire season, less billable costs. The average net cost to the state for suppression is approximately \$18.4 million per year. In the past seven years, the highest year was FY 2007 at \$39.7 million and the lowest was FY 2003 at \$2.0 million.

Average Cost of Fire Suppression			
Fiscal Year	Total Cost	Reimbursements	Net Cost
2001	\$54,925,104	\$44,784,017	\$10,141,087
2002	16,417,193	3,549,700	12,867,493
2003	6,710,688	4,684,927	2,025,761
2004	79,579,965	44,582,841	34,997,124
2005	3,969,096	989,945	2,979,151
2006	8,302,312	3,240,042	5,062,270
2007	61,000,318	21,290,928	39,709,390
2008 (through 8/26/07)	\$84,375,497	\$48,217,809	\$36,157,688
7 year average	\$37,193,581	\$18,079,456	\$19,114,125
5 year adjusted average	\$35,361,202	\$16,196,681	\$18,412,745

What are current year fire costs?

As noted in the above table, as of August 26, 2007 the state has incurred \$84.3 million in fire costs, of which \$48.2 is billable to other parties, resulting in a net cost to the state of \$36.2 million. These numbers will continue to change as fires are still burning and cost settlement with other parties has not yet occurred. Updated costs will be made available to the legislature when session convenes.

How have we paid for fire costs in the past?

The following process has been utilized to pay for fire suppression costs in the past. DNRC manages this process to assure that cash flow needs are met and that sufficient appropriation authority is maintained to operate the department.

1. The Governor's emergency fund. The Governor has a statutory appropriation of \$16.0 million for the biennium for emergencies, of which fire suppression is one of many allowed uses. The Governor must declare an emergency before this money can be used.
2. Supplemental appropriations. In addition to the Governor's emergency fund, the Department of Natural Resources and Conservation (DNRC) utilizes general fund and some state special revenue appropriated

for operations of divisions of DNRC in the second year of the biennium to fund fire suppression until the legislature can meet in regular session and:

- a. Pay any outstanding fire suppression costs; and
 - b. Replace the funding for operations of the department that was used to pay fire suppression costs.
3. General Fund Loan. DNRC also has the ability to borrow general fund against future federal payments to subsidize cash flow. As federal payments are received, the department pays back the loan.

What does the Governor want the legislature to do?

The Governor is requesting that the legislature provide appropriation authority to DNRC and the Department of Military Affairs (DMA) for fire suppression costs for FY 2008, as well as provide anticipated funding for FY 2009 fire costs. The Governor's request also includes increasing the emergency fund from \$16.0 to \$25.0 million and clarifying the amount of time an emergency declaration for fire suppression can exist.

Why can't the Governor use the ending fund balance?

The Governor does not have the authority to increase overall general fund appropriation authority. He can only transfer authority from one agency to another (for a like purpose) or from the second year of the biennium to the first within an agency (supplemental appropriation). Increased overall general fund spending authority is exclusively a legislative power.

Why doesn't the Governor cut budgets and transfer the money?

The Governor can order agencies to spend less money than they were appropriated if the projected ending fund balance drops below a statutory threshold. However, the issue is not an adequate ending fund balance. The issue is whether DNRC has the cash or spending authority to pay for fire costs. The ending fund balance is projected to be well above the statutory threshold.

Even if the Governor could cut budgets of the other agencies, he could not get the authority to DNRC to pay for fire suppression. The Governor can transfer general fund from one agency to another, but only for like purposes. Therefore, the Governor could only move money that had been appropriated to other agencies for fire suppression related activities. Those appropriations simply do not exist.

Is the ending fund balance enough to fund the Governor's proposal?

Yes, the projected ending fund balance for the biennium is \$184.0 million. Revenue estimates will be updated for the special session.

Why hasn't a special session been needed to fund high cost seasons in the past?

Three difficult fire seasons have occurred in the past seven years. Each have been paid for in a different manner. During the 2000 fire season (FY 2001) the head of the Federal Emergency Management Agency (FEMA) provided blanket approval for assistance while touring the fires. This approval included cash advances to cover the ongoing costs. In FY 2004, the net cost to the state was \$34.9 million; Governor Martz utilized the one-time federal funding of \$50.0 million under the Job Growth and Tax Relief Act to cover this cost. Last season (FY 2007) DNRC utilized the Governor's emergency fund to cash flow fire costs until the legislature met in 2007 to provide a \$25.0 million supplemental appropriation to cover the remaining portion of the bill.

HOUSE BILL NO. 1

INTRODUCED BY T. CALLAHAN

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE EMERGENCY AND DISASTER LAWS; REMOVING THE DURATIONAL LIMIT ON AN EMERGENCY OR A DISASTER RELATING TO A FIRE THAT IS DECLARED DURING THE MONTHS OF JULY THROUGH OCTOBER; INCREASING THE STATUTORY APPROPRIATION FOR EMERGENCIES AND DISASTERS; PROVIDING APPROPRIATIONS FOR FIRE SUPPRESSION AND FOR DISASTER RESPONSE AND RECOVERY ACTIVITIES; AMENDING SECTIONS 10-3-302, 10-3-303, AND 10-3-312, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 10-3-302, MCA, is amended to read:

"10-3-302. Declaration of emergency -- effect and termination. (1) A state of emergency may be declared by the governor when ~~he~~ the governor determines that an emergency as defined in 10-3-103 exists.

(2) An executive order or proclamation of a state of emergency ~~shall activate~~ activates the emergency response and disaster preparation aspects of the state disaster and emergency plan and program applicable to the political subdivision or area and ~~be~~ is authority for the deployment and use of any forces to which the plans apply and for the distribution and use of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to parts 1 through 4 of this chapter or any other provision of law pertaining to disasters and disaster-related emergencies.

(3) ~~A~~ Except as provided in subsection (4), a state of emergency may not continue for longer than 20 days unless continuing conditions of the state of emergency exist, which ~~shall~~ must be determined by a declaration of an emergency by the president of the United States or by a declaration of the legislature by joint resolution of continuing conditions of the state of emergency.

(4) A state of emergency that has been declared during the months of July through October and that relates to a fire is not subject to the 20-day time limitation contained in subsection (3)."

Section 2. Section 10-3-303, MCA, is amended to read:



1 **"10-3-303. Declaration of disaster -- effect and termination.** (1) A state of disaster may be declared by

2 the governor when ~~he~~ the governor determines that a disaster has occurred.

3 (2) An executive order or proclamation of a state of disaster ~~shall activate~~ activates the disaster response
4 and recovery aspects of the state disaster and emergency plan and program applicable to the political subdivision
5 or area and ~~be~~ is authority for the deployment and use of any forces to which the plans apply and for the
6 distribution and use of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to
7 be made available pursuant to parts 1 through 4 of this chapter or any other provision of law pertaining to disaster
8 and disaster-related emergencies.

9 (3) A Except as provided in subsection (5), a state of disaster may not continue for longer than 30 days
10 unless continuing conditions of the state of disaster exist, which ~~shall~~ must be determined by a declaration of a
11 major disaster by the president of the United States or by the declaration of the legislature by joint resolution of
12 continuing conditions of the state of disaster.

13 (4) The governor shall terminate a state of emergency or disaster when:

14 (a) the emergency or disaster has passed;

15 (b) the emergency or disaster has been dealt with to the extent that emergency or disaster conditions no
16 longer exist; or

17 (c) at any time the legislature terminates the state of emergency or disaster by joint resolution. However,
18 after termination of the state of emergency or disaster, disaster and emergency services required as a result of
19 the emergency or disaster may continue.

20 (5) A state of emergency that has been declared during the months of July through October and that
21 relates to a fire is not subject to the 30-day time limitation contained in subsection (3)."

22
23 **Section 3.** Section 10-3-312, MCA, is amended to read:

24 **"10-3-312. Maximum expenditure by governor -- appropriation.** (1) Whenever an emergency,
25 including an energy emergency as defined in 90-4-302, or a disaster is declared by the governor, there is
26 statutorily appropriated to the office of the governor, as provided in 17-7-502, and, subject to subsection (2), the
27 governor is authorized to expend from the general fund an amount not to exceed ~~\$46~~ \$25 million in any biennium,
28 minus any amount appropriated pursuant to 10-3-310 in the same biennium. The statutory appropriation in this
29 subsection may be used by any state agency designated by the governor.

30 (2) In the event of the recovery of money expended under this section, the spending authority must be

-2 -Authorized Print Version - HB 1

60th Legislature Special Session September 2007 HB0001.01

reinstated to a level reflecting the recovery.

(3) If a disaster is declared by the president of the United States, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund an amount not to exceed \$500,000 during the biennium to meet the state's share of the individual and family grant programs as provided in 42 U.S.C. 5178. The statutory appropriation in this subsection may be used by any state agency designated by the governor."

NEW SECTION. Section 4. Appropriations. (1) The following amounts are appropriated from the state general fund to the department of natural resources and conservation for wildfire suppression and for disaster response and recovery activities in Montana:

Fiscal year 2008 \$39 million Fiscal year 2009 \$10 million

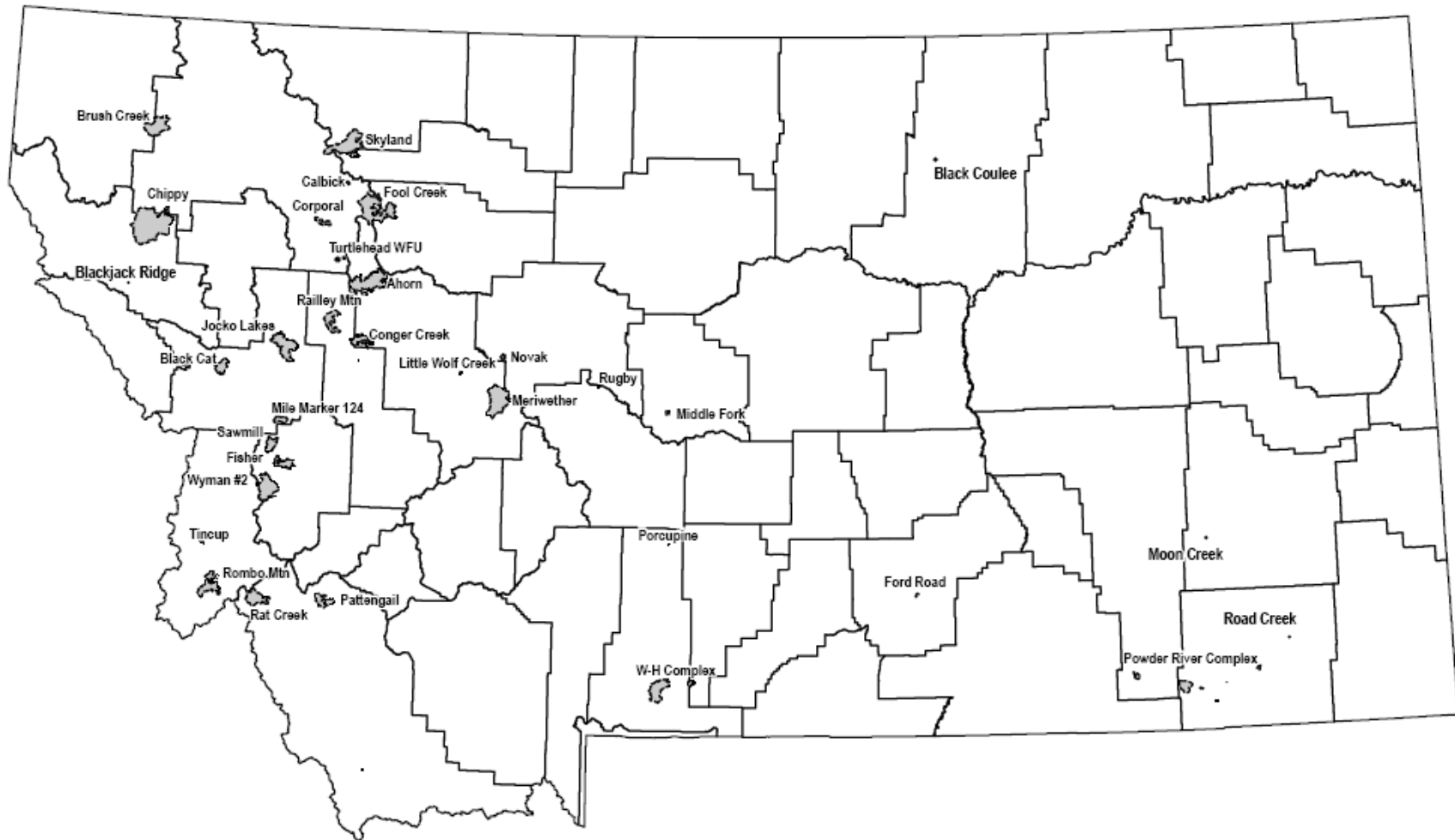
(2) There is appropriated \$3 million from the general fund to the department of military affairs for fiscal year 2008 for wildfire suppression and for disaster response and recovery activities in Montana.

(3) Of the \$42 million appropriated to the departments of natural resources and conservation and military affairs for fiscal year 2008, up to \$16 million is intended to be treated as the recovery of money previously expended under 10-3-312 in fiscal year 2008.

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

- END

LARGE FIRES 2007



0 20 40 80 120 160 Miles



Map produced August 31, 2007.

Overview

The Governor requests additional appropriations for fighting wildland fires for the 2009 biennium as follows:

- \$42 million for current FY 2008 anticipated expenditures base on actual experience (this restores statutory emergency fund authority to full capacity for the biennium)
- \$10 million for FY 2009 anticipated expenditures
- \$9 million increase in statutory emergency fund authority (from \$16 million to \$25 million per biennium).
- Remove the current 20 day emergency and 30 day disaster declaration limitations for fire during the months of July through October.

The funding for these fires is currently available in general fund cash balance and likewise is available in the 2009 biennium ending fund balance.

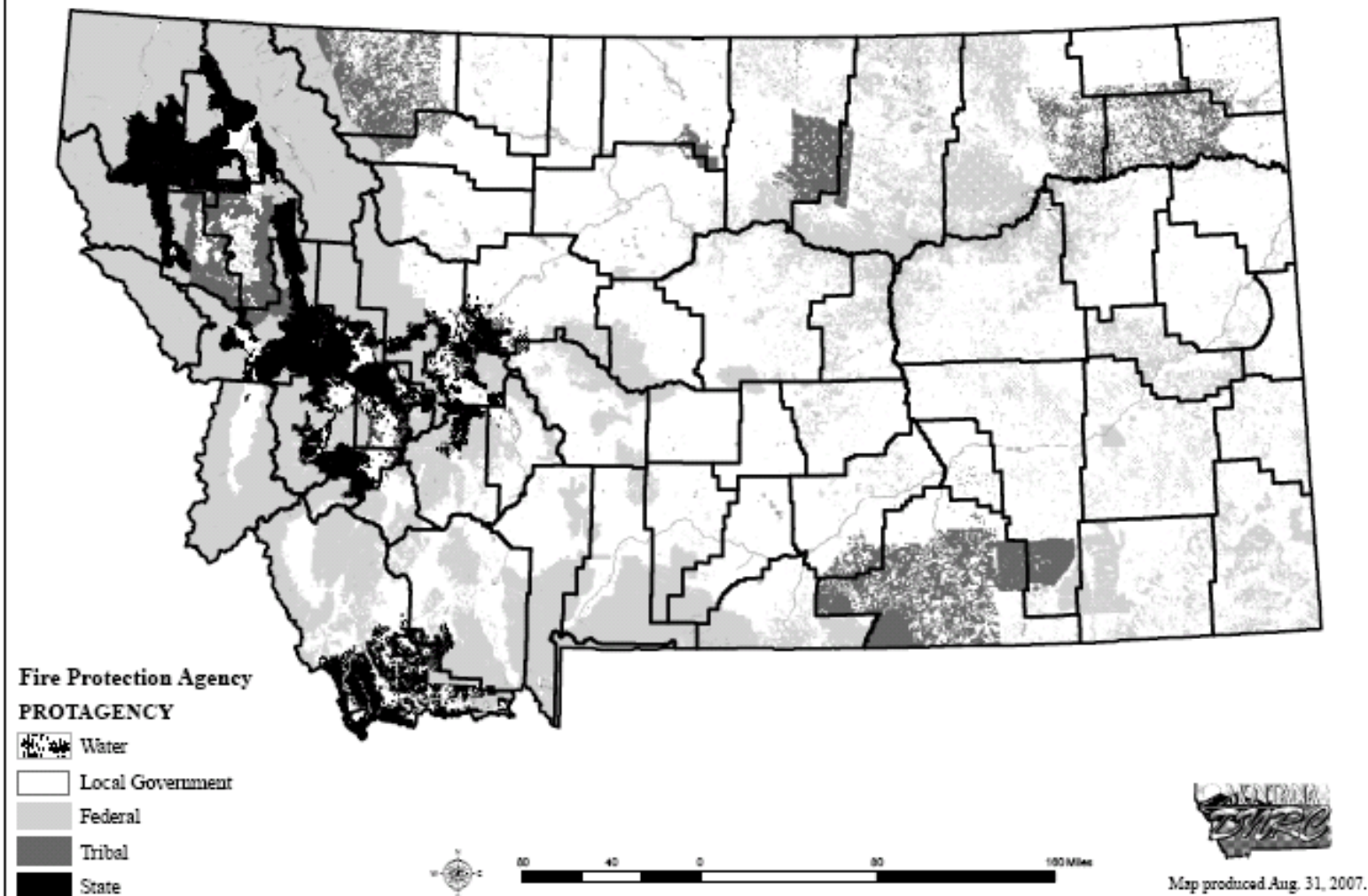
Wildland Fire Suppression

DNRC directly protects over 5 million acres of state, private, and federal lands; assists all 56 cooperating counties with fires exceeding their capabilities on 45 million acres of state and private lands; and subcontracts fire protection on 1.7 million acres of state and private lands to the U.S. Forest Services (USFS), U.S. Bureau of Land management (BLM), U.S. Fish and Wildlife Services (FWS), and Confederated Salish and Kootenai Tribes. DNRC provides support and assistance to federal fire agencies and other states when appropriate.

Fire Protection by DNRC in FY 2007

Category	State and Private Lands (Acres)	Public Lands (Acres)	Total Acres
DNRC Direct Protection			5,152,142
State and Private Lands	3,481,711		
BLM Lands		694,665	
USFS Lands		950,322	
Tribal/BIA Lands		4,551	
BOR Lands		2,776	
FWS Lands		18,117	
State/County Cooperative Fire Protection	45,309,480		45,309,480
Federal Direct Protection			1,686,102
Protected by Tribal/BIA	139,256		
Protected by BLM	68,542		
Protected by US FS	1,441,434		
Protected by US FWS	36,870		
TOTALS	50,477,293	1,670,431	52,147,724

WILDLAND FIRE PROTECTION BY AGENCY



Number of Fires on State-Protected Land¹			
Calendar Year²	Direct protection	County assist	Total fires
2001	304	29	333
2002	291	26	317
2003	497	68	565
2004	306	25	331
2005	224	16	240
2006	390	86	476
2007 (YTD) ³	340	44	384

¹ DNRC's direct protection program covers 3.5 million acres of state and private lands and 1.7 million acres of public lands. Through the county assistance program, DNRC assists with protection of 45 million acres of state and private lands. A network of 400 fire departments provides initial response to wildfires in 56 counties. DNRC assists on fires that escape the counties' capabilities and provides training, prevention materials, and equipment.

² DNRC fire data is maintained on a calendar year basis.

³ YTD (year-to-date) is estimated from daily fire reports and dispatch centers.

Acres Burned on State-Protected Land¹			
Calendar Year²	Direct protection	County assist	Total acres
2001	1,805	14,935	16,740
2002	497	27,895	28,392
2003	45,206	122,209	167,415
2004	211	10,501	10,712
2005	2,721	13,342	16,062
2006	22,346	451,414	473,760
2007 (YTD) ³	44,178	47,434	91,612

¹ DNRC's direct protection program covers 3.5 million acres of state and private lands and 1.7 million acres of public lands. Through the county assistance program, DNRC assists with protection of 45 million acres of state and private lands. A network of 400 fire departments provides initial response to wildfires in 56 counties. DNRC assists on fires that escape the counties' capabilities and provides training, prevention materials, and equipment.

² DNRC fire data is maintained on a calendar year basis. Data can be provided on fiscal year basis, though that will require more extensive database work.

³ YTD (year-to-date) is estimated from daily fire reports and dispatch centers.

Percentage of Fires by Cause	
Cause	%
Lightning	50
Railroads	3
Equipment	3
Debris Burning	14
Arson	1
Miscellaneous	13
Smoking	2
Campfire	12
Powerlines	2

Note: Fires by cause are based on the 5-year average from 2001-2006.

Montana DES Drought Update 8/22/07 *

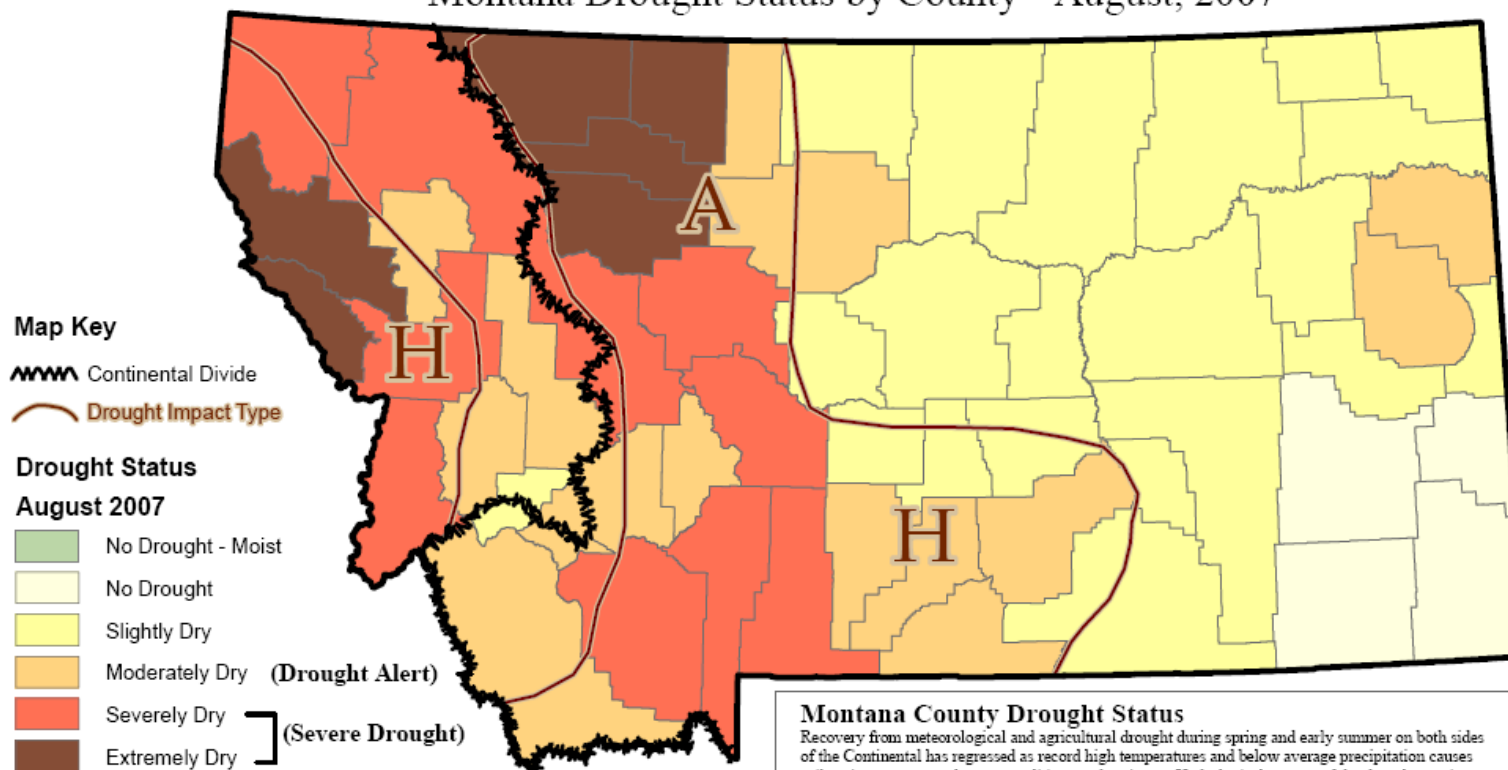
Since June, hot and dry weather has dominated the region creating very high to extreme fire conditions. Fire indices are at an all time high while fuel moistures are low. Accompanying the high indices are weather patterns that have set the conditions for lightning and lightning caused starts. High pressure weather patterns over the region are responsible for the high temperatures and little to no moisture. Occasional cold fronts push through the region causing severe lightning storms that ignite wildfires. Rain has accompanied some of these fronts but a return to a high pressure system tends to mitigate most of the moisture received.

Long Range Predictions *

Above normal significant fire potential is forecast for most of the area during August. Fuel moisture conditions should improve during the September through November time period except for eastern Montana. In many areas across western Montana and northern Idaho, downed dead woody fuel moistures are drier than normal and Energy Release Component indices are running near or above record levels and well ahead of normal for this time of year. The Climate Prediction Center's forecast calls for above normal temperatures and below normal precipitation during August, especially over western portions of the Area. Wind events are likely to increase during August as well. Abundant fine fuels are rapidly curing in eastern Montana and will likely increase the probability for large fire problems during August and into the fall months.

* Source: <http://nris.state.mt.us/Drought/status/>

Montana Drought Status by County - August, 2007



Drought Impact Types - A = Agricultural - Soil Moisture, Range conditions

H = Hydrological - Water Supplies, Streamflow, Groundwater

Drought Alert - Governor's Drought Advisory Committee strongly encourages local officials to convene local drought committees.

Severe Drought - Local officials should have local drought planning efforts underway or should reconvene the local drought committee at the earliest opportunity.

For recommended responses, see the Montana Drought Plan.



<http://nris.mt.gov/drought/>



<http://drought.mt.gov/>

Montana County Drought Status

Recovery from meteorological and agricultural drought during spring and early summer on both sides of the Continental has regressed as record high temperatures and below average precipitation causes soil moisture, crop, and range conditions to deteriorate. Hydrological aspects of the drought continue to worsen as reservoirs are drafted heavily and streamflow approaches very low levels for a number of rivers across the state due to late formation and early melt of the mountain snowpack.

The Governor's Drought Advisory Committee assesses water supply and moisture conditions on a monthly basis to determine drought status for each county of the state. The drought status map is used primarily to promote awareness of drought and to alert Montanans to impending drought conditions so they may respond appropriately.

Drought Alert: Governor's Drought Advisory Committee strongly encourages watershed groups and county drought committees to convene and undertake planning for drought.

Severe Drought: Local officials should have local drought planning underway or should convene local drought planning at the earliest opportunity.

For information about how the drought status maps are determined or to learn more about recommended responses to drought see the Montana Drought Response Plan. (<http://nris.state.mt.us/drought/committee/DroughtP07.pdf>)

Causes to Increased Costs

Fire fighting costs are escalating dramatically through a worrisome combination of at least three factors. First, extreme drought still puts much of Montana at risk of large fires. Second, there are hundreds, if not thousands, of new houses and other structures that are close to or actually within forest areas. And finally, given federal budget pressures, there is a heightened likelihood that significant assistance in the past, beyond the cost-shares and standard FEMA declarations, may not occur in the future. Within the past ten years, Montana has at least twice benefited greatly from substantial federal cash assistance beyond standard fire cost sharing.

Funding History

The state general fund has not incurred all the costs for two of the large fire years. As indicated in the Legislative Fiscal Division information on page 8, the Federal Emergency management Agency (FEMA) has reimbursed the state for a large portion of the costs. FEMA provided a blanket approval for the 2000 fire season. Montana received a one-time federal funding of \$50 million under the Job Growth and Tax Relief Act to cover the costs in 2004. These costs reimbursements were unusual and are not anticipated in the future.

Other than the statutory emergency authority, the cost of wildland fire suppression is not appropriated by the Legislature until the regular legislative session in the form of a supplemental appropriation which is requested to cover costs over and above what was available in the Governor's Emergency fund.

The cost of wildland fire suppression is funded with general fund. Department of Natural Resources and Conservation has general fund authority in five divisions. The Forestry/Trust Division includes the Fire and Aviation management Bureau and is responsible for fire suppression. When necessary, the fire costs are covered with Department general fund authority from one of the four divisions transferred to the Forestry/Trust Division and/or from the second year of the biennium. In the past the agency has been able to cover their on-going general funded programs until the Legislature convenes and appropriates supplemental general fund authority. The agency then moves the expenditures to the supplemental appropriation and moves the authority back to the originating Division's budget which reinstates the regular HB 2 authority. The 2007 fire season is a significant event and the department's fiscal year 2008 HB 2 general fund authority is insufficient to cover the daily program costs and the fire costs until the next regular legislative session.

2009 Biennium Executive Fire Funding Plan

Pay for the summer 2007 fire expenses and spring 2008 spring fires

The Executive proposes appropriating in fiscal year 2008 \$39 million to the Department of Natural Resources and Conservation and \$3 million to the Department Military Affairs for current costs incurred and estimated costs for remainder of current fire season. This includes \$500,000 for spring fire suppression costs.

- Protection costs and suppression costs are multi-jurisdictional and require an equitable sharing of costs. This is negotiated by the designated agency line officers for the responsible wildland fire response agencies through cost-share agreements. DNRC is primarily responsible for wildland fire protection on state and private lands, while the primary federal agencies are Bureau of Indian Affairs, Bureau of Land Management, US Fish and Wildlife Services, and USDA Forest Service. Costs are billed to the party responsible for the protection. Some costs are shared between responsible parties. For the 2007 season the cost share is ranging between 20% and 100% depending on incident.
- Federal Emergency Management Agency (FEMA) made three declarations for assistance in the 2006 and has made three in the 2007 season. Not all the costs associated with FEMA declared fires are allowable and some costs incurred are outside the declaration dates.
- The current estimated fiscal year 2008 state responsibility for fire costs are approximately \$36 million. The current estimated fiscal year 2008 billable fire costs to the various responsible parties (USFS, BLM, Tribal, FEMA) are \$48.2 million.
- Current estimated fiscal year 2008 total fire costs are \$84.4 million.

Increase the statutory appropriation

The Governor is statutorily authorized by 10-3-312, MCA to expend from the general fund not to exceed \$16 million for emergencies or disasters in the same biennium by any state agency designated by the Governor. The Governor proposes to increase this statutory appropriation from \$16 million to \$25 million.

Current Biennium Appropriation

In addition to increasing the emergency statutory capacity the Executive is proposing to provide a \$10 million biennial general fund appropriation for the Department of Natural Resources and Conservation to cover fiscal year 2009 fire suppression costs.

- Proactive funding of fire suppression both direct and county co-op protection
- Provide for initial attack and severity appropriation
- Provide appropriation for increase of average cost of fires

Emergency Declarations Time Restraints

The Governor is statutorily authorized by 10-3-302 and 10-3-303, MCA to declare a state of emergency or disaster. Currently a declaration for any incident including fire is limited in length to 20 days for an emergency and 30 days for a disaster. The Governor proposes to remove the time limitations applicable to these declarations with regard to fire, only, during the months of July through October.

State of Montana
Office of the Governor

Executive Order 15-2007

**EXECUTIVE ORDER PROCLAIMING AN EMERGENCY TO EXIST
STATEWIDE IN THE STATE OF MONTANA**

WHEREAS, extremely hazardous wildland fire conditions currently exist throughout the State of Montana; and

WHEREAS, the hot and dry conditions are predicted to continue through the summer months; and

WHEREAS, numerous wildland fires have occurred in the State of Montana; and

WHEREAS, in the past, an aggressive initial attack on all wildland fire starts has been the top priority of Montana's fire fighting forces; and

WHEREAS, an aggressive initial attack considerably reduces the number of large wildland fires, which in turn significantly reduces the damage to both public and private property; and

WHEREAS, continued aggressive initial attacks on all future wildland fire starts are needed to protect lives and property in the state; and

WHEREAS, additional state resources are needed to reinforce Montana's initial attack capabilities and support reduction of large wildland fires should they occur; and


WHEREAS, wildland fires have been and are currently burning and have created an imminent threat of a disaster, which timely actions can avert or minimize; and

WHEREAS, under these conditions, pursuant to 10-3-302, 10-3-311, and 10-3-312, MCA, the Governor may mobilize state resources and the Montana National Guard to protect life, health, and property and may expend funds to meet contingencies and needs that may arise from the emergency.

NOW, THEREFORE, I, BRIAN SCHWEITZER, Governor of the State of Montana, by virtue of the authority vested in me pursuant to the Montana Constitution, Title 10, Chapter 3, MCA, and other applicable laws of the State of Montana, do hereby declare that an emergency exists in the State of Montana, as defined in §§ 10-3-103 and 10-3-302, MCA, which warrants an aggressive initial attack on all wildland fire starts in Montana.

This order is effective July 16, 2007.

Given under my hand and the
GREAT SEAL of the State of
Montana, This 16th day
of July, 2007.


Brian Schweitzer, Governor

Attest:


Brad Johnson, Secretary of State

State of Montana
Office of the Governor

Executive Order 16-2007

**EXECUTIVE ORDER PROCLAIMING THAT THE CURRENT FIRE
CONDITIONS ARE CAUSING AN EMERGENCY TO EXIST STATEWIDE IN
THE STATE OF MONTANA**

WHEREAS, numerous and intense wildland fires are currently burning in the State of Montana in Flathead, Missoula, Lewis and Clark, Beaverhead, Pondera, Glacier, Gallatin, Teton, Sanders, Lake, and Lincoln counties that are not contained; and

WHEREAS, under current conditions, new wildland fire starts are likely throughout the State of Montana; and

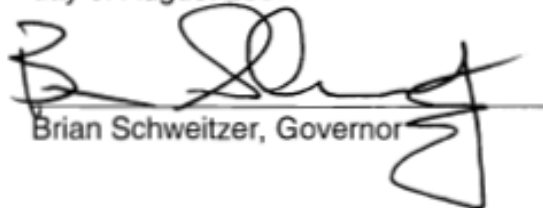
WHEREAS, wildland fires currently burning have created a imminent threat of disaster with the potential for causing immediate peril to life or property that warrant taking extraordinary emergency efforts to avert or minimize damage; and

Whereas, under current conditions, pursuant to § 10-3-302, § 10-3-311, and § 10-3-312, MCA, the Governor may mobilize state resources and the Montana National Guard to protect life, health and property and may expend funds to meet contingencies and needs that may arise from the emergency.

NOW, THEREFORE, I, BRIAN SCHWEITZER, Governor of the State of Montana, by virtue of the authority vested in me pursuant to the Montana Constitution, Title 10, Chapter 3, MCA, and other applicable laws of the State of Montana, do hereby declare that an emergency exists in the State of Montana as defined in § 10-3-103 and § 10-3-302, MCA, which warrants aggressive attacks on current wildland fires and all new wildland fire starts in Montana. Executive Order 15 -2007 concerning earlier conditions expires at midnight on August 4, 2007.

This order is effective August 5, 2007.

Given under my hand and the GREAT
SEAL of the State of Montana, this 3rd
day of August 2007.



Brian Schweitzer, Governor

Attest:



Brad Johnson, Secretary of State

State of Montana
Office of the Governor

Executive Order No. 17-2007

**EXECUTIVE ORDER PROCLAIMING A DISASTER
TO EXIST IN THE STATE OF MONTANA**

WHEREAS, extremely dry conditions and high winds continue to create hazardous fire conditions across the state; and

WHEREAS, wildland fires have been and are currently burning, which create, and pose an imminent threat of continuing to create, widespread and severe damage and loss of property, constituting a disaster within the meaning of § 10-3-103(3), MCA; and

WHEREAS, firefighting resources continue to be scarce due to extreme wildland fire conditions across the western portion of the United States; and

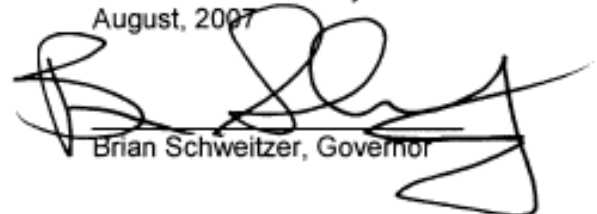
WHEREAS, additional state resources continue to be needed to reinforce Montana's initial and extended attack capabilities and support reduction of large wildland fires when they occur; and

WHEREAS, in the event of a declaration of a state of disaster under § 10-3-303, MCA, the Governor may mobilize state resources and the Montana National Guard to protect life, health, and property and may expend funds to meet contingencies and needs that may arise from the disaster, pursuant to §§ 10-3-311 and -312, MCA.

NOW, THEREFORE, I, BRIAN SCHWEITZER, Governor of the State of Montana, by virtue of the authority vested in me under the laws and the Constitution of the State of Montana, do hereby declare that a disaster exists as a result of the wildland fires and do hereby activate the applicable response and recovery aspects of the state disaster and emergency plan and authorize the incurring of liabilities and expenses as necessary to meet contingencies and needs arising from the disaster.

This order is effective August 25, 2007.

Given under my hand and the
Great Seal of the State of
Montana this 22nd day of
August, 2007



Brian Schweitzer, Governor

ATTEST:



Brad Johnson, Secretary of State

2009 Biennium Montana General Fund Balance
Special Session September 2007

	Actual 2006	FY Actual 2007	FY Projected 2008	FY Projected 2009
Balance	\$289.68	\$408.58	\$543.54	\$206.56
Adjustments	(22.46)	5.92	8.23	
Adjusted Balance	\$267.22	\$414.49	\$551.77	\$206.56
Revenue				
HJR 2 Revenue	\$1,708.17	\$1,829.82	\$1,805.90	\$1,875.48
Revenue anticipated for FY 2007 not received yet			3.50	
Revenue Total	\$1,708.17	\$1,829.82	\$1,809.40	\$1,875.48
Available Funds	\$1,975.38	\$2,244.32	\$2,361.18	\$2,082.04
Disbursements				
General Appropriations - ongoing	\$1,269.54	\$1,325.00	\$1,550.70	\$1,624.22
General Appropriations - OTO	47.93	54.59	63.52	29.37
Statutory Appropriations	120.29	149.22	257.03	159.10
Emergency			16.50	
Miscellaneous Appropriations	102.91	54.17	20.61	0.52
Continuing LRBP			2.45	
Supplemental Appropriations (HB3+10)	-	68.15		
Non-budgeted Transfers - ongoing	24.27	42.81	9.17	9.35
New bills - OTO			117.67	97.97
Language Appropriations	0.71	0.64	0.35	0.70
Feed Bill Appropriations	1.15	6.19	2.43	8.74
Anticipated Reversions			(3.20)	(4.34)
Post-Session adjustments				
School additional appropriation due to revenues			30.00	
Additional tax rebate due to revenues			36.40	
September Special Session Request included in HB 1				
FY 2008 fires			42.00	
FY 2009 fires - appropriation				10.00
Increase emergency statutory appropriation			9.00	
Disbursement Total (OTO and ongoing)	\$1,566.80	\$1,700.77	\$2,154.62	\$1,935.64
Ending Fund Balance	\$408.58	\$543.54	\$206.56	\$146.40